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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,491	01/26/2004	Christopher Stewart	PD-203075	9546
20/991 7590 04/07/2009 THE DIRECTV GROUP, INC. PATENT DOCKET ADMINISTRATION CA / LA1 / A109 2230 E. IMPERIAL HIGHWAY EL SEGUNDO, CA 90245				
EXAMINER				
LIN, JASON K				
ART UNIT		PAPER NUMBER		
2425				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/765,491

Applicant(s)

STEWART, CHRISTOPHER

Examiner

JASON K. LIN

Art Unit

2425

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425

Continuation of 11, does NOT place the application in condition for allowance because: A) Applicant's view of Halliday on P.11: line 12 - P.12: line 1 with regards to the embodiments of Halliday are duly noted, but the examiner would like to point out that these are only some of the embodiments of Halliday, and are not solely limited to those only cited by the applicant.

B) On P.12: lines 7-8, Applicant's assert that "The user has specifically designated that Work already as something he or she wants, there is no reason to then 'rate' that Work. In response the examiner respectfully disagrees. The fact that the user wants a particular work does not preclude rating the work. One may want something, but there are different levels of wanting. Take the example of Stumphauzer Paragraph 0030-0031 and Table 1, it can clearly be seen that listed on the playlist are Works wanted by the user, but they also have a corresponding rating. It can be seen that it would be beneficial to associate a rating with a particular Work, since viewers are complex and don't necessarily only default to either just wanting a work or not wanting a work. It is beneficial to provide for different levels of want, which is provided for by allowing the user to "rate" that work. Taking this further, the user may also want to change his level of want (rating), for a particular work, and by allowing the user to rate the work, while it's currently being played to them would be most beneficial. So as one can see, there are many reasons for rating a Work.

C) On P.12: lines 19-31, Applicant's assert that "there is no suggestion to provide capability at the user site or receiver for real-time user feedback on the currently streaming file..." The examiner respectfully disagrees. Stumphauzer was not the only reference used, and the base reference Halliday does allow for the user to interact with the system server and database via the receiver through the GCN (Global Communication Network) in at least, but not limited to Paragraph 0051-0052. Therefore, Halliday has already established the function of being capable of communicating back to the server.

D) On P.13: lines 14-18, Applicant asserts that "The Server would interact with and direct each User independently. The Server would not stream the user rating information back over the first communication network to a plurality of users..." In response, the examiner respectfully disagrees. First, the examiner would like to address Applicant's statement on "stream the user rating information back over the first communication network to a plurality of users." The claim calls for "where the system server retrieves the unique user rating information for each of a plurality of users for streaming transmission in the first communication network; a plurality of user entertainment systems receiving the stream transmission in the first communication network..." The Examiner would like clarify that the claims and applicant's specifications teach a unique user rating which is sent to a user. That is, each user would receive its own unique rating information from the server. Claims as is, does not specify if "streaming transmission" for "unique user rating information" is done at once, at the same time, at scheduled intervals, or individually, etc. So one can not rule out that the user rating information could be streamed independently to each user since the claim limitations of Applicant's currently claimed invention are still broad enough in scope to allow for this possibility. Therefore, the server of Halliday interacting with each user independently would not break away from Applicant's claimed invention.

Applicant further asserts, "...and each user receiver would not itself compare the user rating information to a current program guide to determine the channel or URL..." In response, the examiner respectfully disagrees. Please note, that Halliday has multiple embodiments, and lists many different features/additions to an existing embodiment. For example, but not solely limited to, Paragraph 0055 of Halliday, the server provides the user with the URL of the Work they desire, and the user polls these URLs to determine when and if the Work can be received. A program guide describes the channel and time content may be provided. A channel merely tells where the content can be found when it is broadcasting, which is really similar to a URL which tells the user where a particular Work may be webcasting from. Examiner would like to further note, the act of polling to see when a particular Work would be available does not change the principle operation of receiving a program guide. Instead it would complement it more. There are systems, where program guides may be received by user systems, but due to server or headend related issues, timing for when the program will be distributed can be changed, voiding the accuracy of the previously received program guide. By allowing the applicant to poll and find out directly when the program may be received adds an extra layer, ensuring receipt of the desired program or Work. Therefore, the examiner concludes that these additions arising from the combinations of Halliday "as a whole" and Stumphauzer would not change the principle operation of Halliday (which is not solely limited to applicant's statements of the embodiments where the server has complete centralized control) nor estrange from applicant's claimed invention.

E) Applicant's assert on P.14: lines 2-10, that "The User has specifically designated that he or she wants to listen to or view that specific Work. There is simply no reason to then 'rate' that work at all much less in real-time..." The examiner respectfully disagrees. Please see examiner's response in Parts (B) and (C). Furthermore, all references used namely Halliday, Stumphauzer, and Rosenberg are related in that they deal with the distribution of content to the user, allowing them to view/listen to desired content. Also, communication networks as disclosed by all three references contain one or more of the following in common, radio frequency, cable, internet, satellite, etc (Halliday - Paragraph 0014; Stumphauzer - Paragraph 0015; Rosenberg - Col 5: lines 24-35). These references are combinable, where the combination provides additional features to the base system that do not destroy nor teach away from applicant's claimed invention, as reasoned by Examiner's response through Parts (A-E).